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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jay B. Schiller

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EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2424

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05/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/759,935	Applicant(s) SCHILLER ET AL.	
	Examiner REUBEN M. BROWN	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments 2/26/2009 have been fully considered but they are not persuasive.

With respect to the rejection of Son, in view of Dodson, applicant on page 11 first of all argues that “the headend of Dodson is distinguished from the headend of claim 22 because Dodson doesn’t teach the headend specifically enabling one or more modulators associated with a terminal group identifier to pass video on demand data downstream”. In response, examiner points out that regardless of whether or not this feature is present in Dodson, it is explicitly taught in Son, (col. 5, lines 55-65; col. 6, lines 1-21; col. 9, lines 1-16).

In particular, it is pointed out that Son clearly teaches that the Logical Node ID, which is included in upstream messages from each particular STB 220, is used by the headend to determine which DVM 106b will transmit video data to the particular STB 222, see col. 5, lines 55-65 thru col. 6, lines 1-21. Therefore, the Logical Node ID transmitted to the STB’s 220 in Son serve the same the purpose as the group ID of the present invention. Both the Logical Node ID of Son & the group ID of the present invention (which are both subsequently received by the headend from particular subscriber terminals) are used by the headend to assign an appropriate modulator/transmit to transmit VOD data to a particular subscriber terminal.

Applicant secondly asserts that there is no motivation to make the combination of Son & Dodson, which "...may lead to inconsistencies and inefficiencies....". Applicant is essentially arguing that the combination of Son & Dodson would be redundant and is thus unnecessary since the use of the group ID attached to the VOD request in Dodson, would take away the motivation to operate Son, as disclosed in the specification. "There would be little if any benefit to combining these two approaches into a single system...if the network equipment were to insert group ids into upstream service requests, there would be no motivation to incur the complexity and overhead of broadcasting ids downstream and store them in terminals, and vice versa...may lead to inconsistencies... as the sources of the information would be entirely different". Examiner respectfully disagrees, and points out that applicant's speculation of the disadvantages & non motivation for combining the references appears to be based on an assumption that a subscriber terminal can only be defined as a member of one group.

Notwithstanding applicant's assertion, there may be multiple different groupings that define a subscriber's location on a network. As such, there is nothing particularly contradictory with the combination of Son, in view of Dodson. Furthermore, it is pointed out that the Dodson reference also provides a separate utility, in that this circuit identification information, is also used by the system to aid in provisioning and maintenance of the network, col. 4, lines 39-53.

Finally, examiner points out that there is no teaching in Son that precludes that the Logical Node ID is sent upstream with a particular VOD request. Son simply teaches that the

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STB 220 periodically sends messages upstream to the headend that includes its associated Logical Node ID, which the headend uses to determine which DVM 106b will be used to fulfill a VOD request by the instant STB 220. **Therefore, if the Logical Node assigned to a particular STB 220 has been changed between the time of the last upstream message was sent from the STB 220 & its current VOD request** (and the STB 220 has been notified of that change; see Son col. 8, lines 36-68), again, **there would be nothing in Son which would preclude the Logical Node ID being included in such a VOD request from the instant STB 220, because the VOD request is a message.** The combination of Dodson, simply makes it clear that the transmission of the group ID with each particular service request would have been beneficial, at least so that the headend ensures the accuracy of which subscribers are receiving which VOD information and also ensuring the location of a subscriber terminal in the network, at the time of the VOD request.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 22-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son, (U.S. Pat # 6,697,376) in view of Dodson, (U.S. Pat # 6,873,622).

Considering claim 22, the claimed VOD system, comprising:

'a headend adapted to address communications comprising an identification of a group of subscriber terminals to all terminals of the group, so that the communication of the identification of the group is not addressed to any one particular terminal of the group, and the identification may be accessed and read by all of the terminals of the group', is met by the disclosure of Son, that the Logical Node ID generator 102 generates a Logical Node ID, which is inserted into the data stream to be transmitted over the network 108 to all of the relevant subscriber stations, (Fig. 1; Fig. 2b; Fig. 3; Fig. 4; col. 7, lines 45-62; col. 8, lines 1-35; col. 9, lines 17-25; col. 9, lines 29-40). The claimed *'headend'* reads on the system 100a and/or cable headend 304 of Son, see Fig. 1; col. 3, lines 51-67 thru col. 4, lines 1-67 and Fig. 3 & col. 6, lines 32-50, respectively.

Regarding additionally claimed, *'headend further adapted to receive a request for a VOD including the group identifier and to enable one or more modulators associated with the group identifier to pass the VOD downstream'*, Son discloses that the subscriber stations include the Logical Node ID in their messages, and the headend transmits the requested VOD over the appropriate modulator 106 (col. 4, lines 57-67; col. 5, lines 45-67; col. 9, lines 25-30).

As for the additionally claimed feature, *'headend adapted to receive a request including the group ID, to extract the group ID from the request'*, emphasis added, even though Son teaches that the Logical Node ID is transmitted upstream in messages, the reference does not explicitly state transmitting the Logical Node ID as part of a VOD request. Nevertheless Dodson, which is in the same field of endeavor, teaches that when a customer issues a request for a VOD program that the remote node numbers are added to the request, col. 4, lines 9-35 & Fig. 3, Step 42. The Broadband Digital Terminal, BDT 10, located within a central office receives the request that includes the remote node number(s), and uses the remote node number to at least verify the service, see col. 4, lines 8-39. The remote node numbers in Dodson, corresponds with the claimed group ID. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Son with the feature of receiving at a headend, a network node number (i.e., a group ID) that is associated with a requesting terminal, along with each request for service, at least for the purpose of verifying the customer's request service with instant customer's service entitlements & also ensuring the location of a subscriber terminal in the network, at the time of the service request, as taught by Dodson.

Considering claims 23, 27, 35 & 39, see Son, col. 2, lines 39-67; col. 4, lines 40-56; col. 8, lines 50-67.

Considering claims 24, 28, 36 & 40, Son teaches that the Logical Node ID may be periodically transmitted to the subscriber stations, (col. 8, lines 23-28; col. 9, lines 52-57).

Considering claims 25, 29, 37 & 41, Son teaches that the Logical Node ID may be sent as an MPEG stream, col. 8, lines 20-35.

Considering claims 26, 30, 32 & 38, the claimed elements of a VOD system that correspond with subject matter mentioned above in the rejection of claim 22 are likewise treated. As for the claimed feature of '*a video server and an application server*', the '*video server*' reads on the operation of the video server 104b, Logical Node ID generator 102b, DVM 106b (Fig. 2B; col. 5, lines 45-67 thru col. 6, lines 1-33.). The claimed '*application server*' reads on the operation of the SSCM 314 at the headend, (Fig. 1; Figs. 2A; 2B; Fig. 3; col. 4, lines 52-67; col. 6, lines 45-67; col. 9, lines 25-29).

Considering claims 31 & 33, Son teaches transmission of Logical Node ID using out-of-band process, col. 7, lines 1-32 & col. 9, lines 9-16.

Considering claim 34, the claimed VOD system, comprising elements that correspond with subject matter mentioned above in the rejection of claim 22, are likewise treated. As for the claimed '*software*', Son necessarily operates using a computer and programmable instructions, at least for the benefit of being able to operate the headend system in an automated fashion, see col. 8, lines 64-67 thru col. 9, lines 1-10. Furthermore, Dodson discloses that the system is operated at least in part with the Network provisioning and Maintenance Management System and Service Providers communicating with each other & other system components using software packages 22 & 24, col. 3, lines 1-25.

Considering claim 40, see Son, col. 8, lines 1-35.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher Kelley/
Supervisory Patent Examiner, Art Unit 2424